

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
National Access Long Distance, Inc.)	Complaint Nos. 1307536
)	2255452
Complaints Regarding)	
Unauthorized Change of)	
Subscribers' Telecommunications Carrier)	

ORDER

Adopted: April 26, 2019

Released: April 26, 2019

By the Deputy Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau:

1. In this Order, we consider two complaints¹ alleging that National Access Long Distance, Inc. (National Access) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants in violation of the Commission's rules.² We conclude that National Access's actions violated the Commission's carrier change rules, and we therefore grant Complainants' complaints.

2. Section 258 of the Communications Act of 1934 (the Act), as amended, prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.³ The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.⁴ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the subscriber's order.⁵ The Commission also has adopted rules to limit the liability of subscribers when a carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.⁶

¹ See Informal Complaint No. 1307536, filed Nov. 8, 2016; Informal Complaint No. 2255452, filed Feb. 22, 2018.

² See 47 CFR §§ 64.1100 – 64.1190.

³ 47 U.S.C. § 258(a).

⁴ See 47 CFR § 64.1120.

⁵ See *id.* § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

⁶ These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. See *id.* §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.* Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges (continued....)

3. We received Complainants' complaints alleging that Complainants' telecommunications service providers had been changed without Complainants' authorization. Pursuant to Sections 1.719 and 64.1150 of our rules, we notified National Access of the complaints.⁷ National Access responded to one of the complaints, stating that it had obtained authorization from the Complainant through independent third-party verification (TPV).⁸ In response to the second complaint, National Access simply stated it "admitt[ed] no wrongdoing" and that it had cancelled the account.⁹ In each case, however, National Access failed to provide any proof of authorization, including a TPV recording. The failure of National Access to provide proof of verified authorization is presumed to be clear and convincing evidence of violations.¹⁰ Therefore, we find that National Access's actions resulted in violations of our carrier change rules, and we discuss National Access's liability below.¹¹

4. National Access must remove all charges incurred for service provided to Complainants for the first thirty days after the alleged unauthorized changes in accordance with the Commission's liability rules.¹² We have determined that Complainants are entitled to absolution for the charges incurred during the first thirty days after the unauthorized changes occurred and that neither the Complainants' authorized carriers nor National Access may pursue any collection against Complainants for those charges.¹³ Any charges imposed by National Access on the Complainants for service provided after this 30-day period shall be paid by the Complainants to the authorized carriers at the rates the Complainants were paying the authorized carriers at the time of the unauthorized change of their telecommunications service providers.¹⁴

5. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361, and 1.719 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.719, the complaints against National Access Long Distance, Inc. ARE GRANTED.

6. IT IS FURTHER ORDERED that, pursuant to Section 64.1170(d) of the Commission's rules, 47 CFR § 64.1170(d), Complainants are entitled to absolution for the charges incurred during the first thirty days after the unauthorized change occurred and that National Access Long Distance, Inc. may not pursue any collection against Complainants for those charges.

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to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. *See id.* §§ 64.1140, 64.1170.

⁷ *Id.* § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); *id.* § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

⁸ *See* National Access Response to Informal Complaint No. 1307536, filed Nov. 22, 2016.

⁹ *See* National Access Response to Informal Complaint No. 2255452, filed Feb. 28, 2018.

¹⁰ *See* 47 CFR § 64.1150(d).

¹¹ If any Complainant is unsatisfied with the resolution of its complaint, such Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules. *Id.* § 1.721. Such filing will be deemed to relate back to the filing date of such Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to such Complainant. *See id.* § 1.719.

¹² *See id.* § 64.1160(b).

¹³ *See id.* § 64.1160(d).

¹⁴ *See id.* § 64.1140, 64.1160.

7. IT IS FURTHER ORDERED that this Order is effective upon release.

Sincerely,



Nancy Stevenson
Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau